

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	
)	Chapter 11
FURNITURE FACTORY ULTIMATE,)	
HOLDING, L.P., ¹)	Case No. 20-12816 (JKS)
)	
Debtor.)	
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)	
STEVEN BALASIANO, NOT INDIVIDUALLY)	
BUT SOLELY IN HIS CAPACITY AS)	Adv. Proc. No. 22-50390 (JKS)
TRUSTEE OF THE LIQUIDATION TRUST OF)	
FURNITURE FACTORY ULTIMATE)	
HOLDING, L.P., <i>et al.</i> ,)	Re: A.D.I. 27
)	
Plaintiff,)	
v.)	
)	
JONATHAN H. BORELL, <i>et al.</i> ,)	
)	
Defendants.)	
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**FORMER DIRECTORS & OFFICERS' MOTION TO DISMISS COUNTS I, II, III, AND
XI OF PLAINTIFF'S AMENDED COMPLAINT**

Jonathan H. Borell, Chad Crosby, Jeff Feinberg, Margie Kaufman, Melissa Klafter, Michael J. McConvery, Hank Mullany, Beth Neumann, David Rogalski, and Lawrence Zigerelli (the “D&Os”), as Defendants in the above-captioned adversary proceeding, by and through their undersigned counsel, respectfully move (the “Motion”) the Court for an order dismissing Counts I, II, III, and XI of the *Amended Complaint* (A.D.I. 27) (the “Amended Complaint”) pursuant to

¹ The Debtor in the chapter 11 case, together with the last four digits of the Debtor’s federal tax identification number, is as follows: Furniture Factory Ultimate Holding, L.P. (4089). The Debtor’s mailing address is 6500 Jenny Lind Road, Space A, Fort Smith, Arkansas 72908.

Federal Rule of Civil Procedure 12(b)(6), made applicable by Federal Rule of Bankruptcy Procedure 7012. In support, the D&Os state:

1. Support for the Motion is set forth in the accompanying opening brief (the “Opening Brief”), filed contemporaneously herewith, and incorporated by reference herein.

2. Pursuant to Bankruptcy Rule 7012(b) and Local Rule 7012-1, the D&Os consent to the entry of final orders or judgments by the Court.

WHEREFORE, for the reasons set out in the Opening Brief, the D&Os respectfully request that the Court (i) enter the proposed form of order attached hereto as Exhibit A granting this Motion, and (ii) grant any further relief that may be appropriate.

Dated: October 20, 2022
Wilmington, Delaware

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/s/ John P. DiTomo

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